

REMARKS

This is in response to the Office Action mailed on March 26, 2004, and the references cited therewith.

Claims 1 and 2 are amended, no claims are canceled, and claims 3-13 are added; as a result, claims 1-13 are now pending in this application. The amendments to claims 1 and 2 are intended to clarify aspects of the service processing switch and network resources that were inherent in the description of the elements provided in the specification.

§103 Rejection of the Claims

Claim 1 was rejected under 35 USC § 103(a) as being unpatentable over Chan et al. (IEEE, May 1997, pp.301-314) in view of Poisson et al. (U.S. Pub. No. 2003/0033401). In order for the Examiner to establish a *prima facie* case of obviousness, three base criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *M.P.E.P.* § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)). Applicant respectfully submits Chan in view of Poisson fails to teach or suggest all of the limitations recited in claim 1 as amended.

For example, claim 1 as amended recites "a service processing switch having a plurality of network resources allocatable to a plurality of subscribing enterprises." The Office Action states that the CPN switch for accessing VPN services is a service processing switch. Applicant respectfully disagrees with this interpretation. The service processing switch comprises a switch having processing and network resource allocatable to a plurality of enterprises. In contrast, the CPN (Customer Premises Network) switch, as the name implies, only allocates resources on a customer's network and does not allocate resources to multiple customers (or subscribers). As result, the CPN switch is not a service processing switch having a plurality of network resources allocatable to a plurality of network subscribers. Thus, Chan fails to teach or disclose each

limitation of claim 1.

Additionally, Applicant has reviewed Poisson and can find no teaching or disclosure of a service processing switch having a plurality of network resources allocatable to a plurality of network subscribers. In view of the above, neither Chan nor Poisson teach or disclose each and every element of Applicant's claim 1. Therefore claim 1 is not obvious in view of Chan and Poisson. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claim 1.

§102 Rejection of the Claims

Claim 2 was rejected under 35 USC § 102(b) as being anticipated by Chan et al. Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *In re Dillon* 919 F.2d 688, 16 USPQ 2d 1897, 1908 (Fed. Cir. 1990) (en banc), cert. denied, 500 U.S. 904 (1991). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, “[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). Applicant respectfully submits that Chan does not teach each and every element Applicant's amended claim 2.

For example, claim 2 as amended recites “allocating by a service provider a subset of network processing resources to a subscribing enterprise.” Chan discloses allocating network bandwidth in the form of VPGs, VPs and VCs. Chan does not disclose allocating network processing resources such as virtual routers, network address translation modules and firewall modules. As a result, Chan does not teach each and every element of Applicant's amended claim 2. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claim 2.

New Claims 3-13

The application has been amended to include new claims 3-13. Support for new claims 3-13 may be found throughout the specification and in particular on page 4, line 19 to page 9,

line 13. Applicant respectfully submits that no new matter has been introduced with the amendments.

Applicant has reviewed Chan and Poisson, and can find no teaching or suggestion of the elements recited in claims 3-13. Applicant respectfully submits that claims 3-13 are therefore allowable.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6954 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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Date September 27, 2004

By


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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 27th day of September, 2004.

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Name


Signature